

**Before the
Federal Communications Commission
Washington, DC 20554**

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| In the Matter of |) | |
| |) | |
| Requests for Waiver by |) | |
| |) | |
| Abbeville County School District |) | File No. SLD-570660 |
| Abbeville, South Carolina |) | |
| |) | |
| Union County School District |) | File No. SLD-453972 |
| Union, South Carolina |) | |
| |) | |
| Williamsburg County School District |) | File No. SLD-622964 |
| Kingstree, South Carolina |) | |
| |) | |
| Schools and Libraries Universal Service |) | CC Docket No. 02-6 |
| Support Mechanism |) | |

ORDER

Adopted: October 18, 2010

Released: October 18, 2010

By the Deputy Chief, Wireline Competition Bureau:

1. In this order, we grant three requests from petitioners seeking to transfer funding commitments granted under the E-rate program (formally known as the schools and libraries universal service support program).¹ The Universal Service Administrative Company (USAC) denied petitioners' requests to transfer E-rate funding commitments from schools that had been closed to other schools within the district. USAC found that the asset transfers did not fit into either category of transfers specifically permitted under the Commission's rules.² We find that these transfers are permitted under the E-rate program rules.

2. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, basic maintenance, and internal connections.³ The applicant files an FCC Form 471 indicating the eligible services it seeks at specific eligible locations.⁴ USAC evaluates the Form 471 and issues a

¹ 47 C.F.R. § 54.513(c). The Commission's rules provide that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c); Letter from Ivan Randolph, Superintendent, Abbeville County School District, to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 02-6, 96-45 (filed May 11, 2010) (Abbeville Request); Letter from Tom Traywick, Senior Compliance Analyst, on behalf of Union County School District, to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 02-6, 96-45 (filed July 8, 2010) (Union Request); Letter from Tom Traywick, Senior Compliance Analyst, on behalf of Williamsburg County School District, to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 02-6, 96-45 (filed July 8, 2010) (Williamsburg Request).

² See 47 C.F.R. § 54.513(c).

³ 47 C.F.R. §§ 54.501-54.503.

⁴ *Id.* § 54.504(c); see, e.g., Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (FCC Form 471).

decision letter either granting or rejecting the request for discounts on each service for the specified locations. In the *Schools and Libraries Third Report and Order*, the Commission stated that “[r]ecipients of support are expected to use all equipment purchased with universal service discounts at the particular location, for the specified purpose for a reasonable period of time.”⁵ It stated, however, that transfers from the entities specified on the FCC Form 471 funding request number (FRN) to other eligible entities were permitted as long as the transfers occurred either at least three years after the date of purchase or from a location that closed.⁶

3. Three South Carolina school districts – Abbeville County School District, Union County School District, and Williamsburg County School District – filed the present request for waiver with the Commission.⁷ Petitioners filed for E-rate support for internal connections in 2007, 2005, and 2008, respectively, but USAC did not complete review of the funding requests and approve the applications until 2010. While USAC was conducting its review, the intended schools were permanently closed. Petitioners now seek to use the USAC funds designated for the closed facilities at the eligible schools to which students were reassigned.⁸

4. In this order, we grant petitioners’ requests and permit them to transfer funding commitments between facilities within their school districts. The Commission permits districts to transfer equipment from schools and libraries that were temporarily or permanently closed to other eligible entities.⁹ The Commission held that it is “economically rational and consistent with the goals” of the E-rate program to permit school or library applicants to transfer E-rate equipment from a closed facility to another eligible school or library.¹⁰ The same rationale supports the transfer of funds in this instance. There is no evidence in the record that the failure to use the funds was caused by waste, fraud, or abuse on the part of the applicable schools or school districts; rather, the applicants did not purchase the equipment because action on the funding requests remained pending. We therefore find that the transfer of equipment in these circumstances falls within the rule permitting the transfer of equipment from a location that has closed. Because each school has its own discount rate based on the number of students eligible for free and reduced lunch and whether it is located in a rural area, however, we direct USAC to recalculate the amount of support based on the new schools’ discounts rates, as long as the amount of funding committed is the same or lower than in the original request.¹¹

5. ACCORDINGLY IT IS ORDERED, pursuant to the authority contained in sections 1–4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151–154 and 254, and sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the petitions of Abbeville County School District, Union County School District, and Williamsburg County School District ARE GRANTED and their applications ARE REMANDED to USAC for further consideration consistent with this order to the extent provided herein.

⁵ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 26923, para. 25 (2003) (*Third Report & Order*).

⁶ *Id.* at 26924, paras. 27-28.

⁷ Abbeville Request; Union Request; Williamsburg Request.

⁸ Abbeville Request at 2; Union Request at 2; Williamsburg Request at 2.

⁹ *Third Report & Order*, 18 FCC Rcd at 26924, paras. 27-28.

¹⁰ *Id.* at 26924, para. 27.

¹¹ 47 C.F.R. § 54.505.

6. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey
Deputy Chief
Wireline Competition Bureau